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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO/OAKLAND DIVISION

11 JEREMY D. MAURER,

NO. C11-03580

12 Plaintiff,

GENERAL DENIAL TO COMPLAINT

13 v.

14 MARCUS & PARTNERS, INC., STEVEN
A. BOOSKA, SHEVGUR LLC d/b/a
15 BORROWLENSES.COM,

16 Defendant(s).
_____/

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18
19 COMES NOW DEFENDANT, STEVEN A. BOOSKA, who, denies, and alleges
20 as follows:
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22 GENERAL DENIAL

23 This defendant denies each and every, and all singular,
24 generally and specifically, the allegations contained in said
25 complaint, each and every part thereof, and denies that complainants
26 have been damaged in the various sums alleges, or in any other sum,
27 or sums whatsoever.

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1 FOR FURTHER, SEPARATE, AND DISTINCT DEFENSES THERETO DEFENDANT
2 ALLEGES AS FOLLOWS:
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4 FIRST AFFIRMATIVE DEFENSE

5 As and for a first separate and affirmative defense, defendant
6 alleges that the complaint, and each and every purported cause of
7 action therein set forth, fails to state facts sufficient to
8 constitute any cause of action against said defendant.
9

10 SECOND AFFIRMATIVE DEFENSE

11 As and for a second separate and affirmative defense to each
12 cause of action of the complaint, defendant alleges that each and
13 every act or failure to act alleged to constitute a breach of
14 contract by defendant was and is excused by the failure of plaintiff
15 to perform all conditions precedent to such act or failure to act.
16

17 THIRD AFFIRMATIVE DEFENSE

18 As and for a third separate and affirmative defense to each
19 cause of action of the complaint, defendant avers that the complaint,
20 and each cause of action thereof, is barred by the fraud and
21 fraudulent conduct of plaintiff and its representatives.
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23 FOURTH AFFIRMATIVE DEFENSE

24 As and for a fourth separate and affirmative defense to each
25 cause of action of the complaint, defendant avers that the complaint,
26 and each cause of action thereof, is barred by unclean hands.

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1 FIFTH AFFIRMATIVE DEFENSE

2 As and for a fifth separate and affirmative defense to each
3 cause of action of the complaint, defendant avers that the complaint,
4 and each cause of action thereof, is barred by the waiver by
5 plaintiff and its representatives of the wrongs and breaches alleged,
6 and that plaintiff is estopped to complain as to the actions and
7 liabilities set forth in the complaint.

8 SIXTH AFFIRMATIVE DEFENSE

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10 As and for a sixth separate and affirmative defense to each
11 cause of action of the complaint, defendant avers that plaintiff was
12 actively careless and negligent in and about the matters alleged in
13 the complaint and said acts of carelessness and negligence on
14 plaintiff's part proximately contributed to the occurrence and
15 damages alleged, if any there were; and that plaintiff's contributory
16 negligence shall reduce any and all damages sustained by plaintiff.

17 SEVENTH AFFIRMATIVE DEFENSE

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19 As and for a seventh separate and affirmative defense to each
20 cause of action of the complaint, defendant avers that if there is
21 any negligence or liability of any of the parties named herein, it is
22 the sole and exclusive negligence or liability of other defendants,
23 and not of the answering defendant.

24 EIGHTH AFFIRMATIVE DEFENSE

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26 As and for an eighth separate and affirmative defense to each
27 cause of action of the complaint, defendant avers that the complaint,
28 and each cause of action thereof, is barred because plaintiff and

1 defendant have entered into an accord and satisfaction of the
2 liabilities complained of and breaches alleged, and the plaintiff is
3 therefore estopped to complain as to the actions and liabilities set
4 forth in the complaint.

5
6 NINTH AFFIRMATIVE DEFENSE

7 As and for a ninth separate and affirmative defense, defendant
8 alleges that the causes of action set forth in the complaint are
9 barred by the provisions of California Civil Code Section 1624.

10
11 TENTH AFFIRMATIVE DEFENSE

12 As and for a tenth separate and affirmative defense to each
13 cause of action of the complaint, defendant is informed and believes
14 and thereon alleges that plaintiff's complaint is barred by the
15 applicable statutes of limitations.

16
17 ELEVENTH AFFIRMATIVE DEFENSE

18 As and for an eleventh separate and affirmative defense to each
19 cause of action of the complaint, defendant is informed and believes
20 and thereon alleges that plaintiff failed to mitigate its alleged
21 damages as required by law.

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23 TWELFTH AFFIRMATIVE DEFENSE

24 As and for a twelfth separate and affirmative defense to each
25 cause of action of the complaint, defendant is informed and believe
26 and thereon allege that plaintiff has ratified all of the acts which


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1 it complains and is therefore estopped from recovering any damages
2 from any defendant herein in connection with the matters alleged in
3 the complaint.

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5 Dated: August 8, 2011

Respectfully Submitted,

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9 STEVEN A. BOOSKA
Attorney at Law